

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

**In the Matter of the Accusation)
and Petition to Revoke Probation)
Against:)**

**S.N. Shubhakar, M.D. a.k.a.,)
Somwarpet Shubhakar, M.D.)**

Case No. 800-2016-023937

**Physician's and Surgeon's)
Certificate No. A33936)**

Respondent)

DECISION

The attached Stipulated Surrender of License and Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on June 19, 2017.

IT IS SO ORDERED June 12, 2017.

MEDICAL BOARD OF CALIFORNIA

By:


**Kimberly Kirchmeyer
Executive Director**

1 XAVIER BECERRA
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 RICHARD D. MARINO
Deputy Attorney General
4 State Bar No. 90471
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-8644
6 Facsimile: (213) 897-9395
Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation and Petition to
11 Revoke Probation Against:

12 **S. N. SHUBHAKAR, M.D., a.k.a.,**
13 **SOMWARPET SHUBHAKAR, M.D.**
14 **P.O. Box 53**
Porterville, CA 93258

15 **Physician's and Surgeon's Certificate No.**
A33936

16 Respondent.

Case No. 800-2016-023937

OAH No. 2017020372

**STIPULATED SURRENDER OF
LICENSE AND ORDER**

17
18 In the interest of a prompt and speedy settlement of this matter, consistent with the public
19 interest and the responsibility of the Medical Board of California of the Department of Consumer
20 Affairs, the parties hereby agree to the following Stipulated Surrender and Disciplinary Order
21 which will be submitted to the Board for approval and adoption as the final disposition of the
22 Petition to Revoke Probation.

23 **PARTIES**

24 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
25 of California (Board). She brought this action solely in her official capacity and is represented in
26 this matter by Xavier Becerra, Attorney General of the State of California, by Richard D. Marino,
27 Deputy Attorney General.

28 //

2. S. N. SHUBHAKAR, M.D., a.k.a., SOMWARPET SHUBHAKAR, M.D.
(Respondent) is representing himself in this proceeding and has chosen not to exercise his right to be represented by counsel.

3. On or about June 11, 1979, the Board issued Physician's and Surgeon's Certificate No. A33936 to SOMWARPET SHUBHAKAR, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Petition to Revoke Probation No. 800-2016-023937 and will expire on October 31, 2016, unless renewed.

Further, on or about November 17, 2015, in a prior disciplinary action entitled *In the Matter of the Accusation Against S. N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D.*, before the Medical Board of California, in Case Number 08-2011-220081, Respondent's physician's and surgeon's certificate was revoked with revocation being stayed and Respondent being placed on probation for three (3) years with certain terms and conditions.

Still further, on or about February 4, 1998, in a prior disciplinary action entitled *In the Matter of the Accusation and Petition to Revoke Probation Against S. N. Shubhakar, M.D.*, before the Medical Board of California, in Case Number D1-1990-2780, Respondent's physician's and surgeon's certificate was revoked with revocation being stayed and Respondent's seven year probation being extended an additional two years.

Finally, on or about August 12, 1992, in a prior disciplinary action entitled *In the Matter of the Accusation Against Somwarpet Shubhakar, M.D.*, before the Medical Board of California, in Case Number 08-1990-2780, Respondent's physician's and surgeon's certificate was revoked with revocation being stayed and Respondent being placed on probation for seven (7) years with certain terms and conditions, including a 60 day suspension.

4. On June 22, 2016, a “Cease Practice Order” was issued against Respondent. Respondent’s Physician's and Surgeon's Certificate No. A33936 was not renewed.

JURISDICTION

5. Accusation and Petition to Revoke Probation No. 800-2016-023937 was filed before the (Board),, and is currently pending against Respondent. The Accusation and Petition to

1 Revoke Probation and all other statutorily required documents were properly served on
2 Respondent on October 17, 2016. Respondent timely filed his Notice of Defense contesting the
3 Petition to Revoke Probation. A copy of the Accusation and Petition to Revoke Probation No.
4 800-2016-023937 is attached as Exhibit A and incorporated by reference.

5 **ADVISEMENT AND WAIVERS**

6 6. Respondent has carefully read, and understands the charges and allegations in the
7 Accusation and Petition to Revoke Probation No. 800-2016-023937. Respondent also has
8 carefully read, and understands the effects of this Stipulated Surrender of License and Order.

9 7. Respondent is fully aware of his legal rights in this matter, including the right to a
10 hearing on the charges and allegations in the Accusation and Petition to Revoke Probation; the
11 right to be represented by counsel, at his own expense; the right to confront and cross-examine
12 the witnesses against him; the right to present evidence and to testify on his own behalf; the right
13 to the issuance of subpoenas to compel the attendance of witnesses and the production of
14 documents; the right to reconsideration and court review of an adverse decision; and all other
15 rights accorded by the California Administrative Procedure Act and other applicable laws.

16 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
17 every right set forth above.

18 **CULPABILITY**

19 9. Respondent admits the truth of each and every charge and allegation in the
20 Accusation and Petition to Revoke Probation No. 800-2016-023937, agrees that cause exists for
21 discipline and hereby surrenders his Physician's and Surgeon's Certificate No. A33936 for the
22 Board's formal acceptance.

23 10.. Respondent understands that by signing this stipulation he enables the Board to issue
24 an order accepting the surrender of his Physician's and Surgeon's Certificate without further
25 process.

26 **CONTINGENCY**

27 11. This stipulation shall be subject to approval by the Board. Respondent understands
28 and agrees that counsel for Complainant and the staff of the Board may communicate directly

1 with the Board regarding this stipulation and surrender, without notice to or participation by
2 Respondent. By signing the stipulation, Respondent understands and agrees that he may not
3 withdraw his agreement or seek to rescind the stipulation prior to the time the Board considers
4 and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the
5 Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this
6 paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not
7 be disqualified from further action by having considered this matter.

8 12. The parties understand and agree that Portable Document Format (PDF) and facsimile
9 copies of this Stipulated Surrender of License and Order, including Portable Document Format
10 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

11 13. In consideration of the foregoing admissions and stipulations, the parties agree that
12 the Board may, without further notice or formal proceeding, issue and enter the following Order:

13 **ORDER**

14 **IT IS HEREBY ORDERED** that Physician's and Surgeon's Certificate No. A33936,
15 issued to Respondent S. N. SHUBHAKAR, M.D., a.k.a., SOMWARPET SHUBHAKAR, M.D.,
16 is surrendered and accepted by the Medical Board of California.

17 1. The surrender of Respondent's Physician's and Surgeon's Certificate and the
18 acceptance of the surrendered license by the Board shall constitute the imposition of discipline
19 against Respondent. This stipulation constitutes a record of the discipline and shall become a part
20 of Respondent's license history with the Medical Board of California.

21 2. Respondent shall lose all rights and privileges as a physician and surgeon in
22 California as of the effective date of the Board's Decision and Order.

23 3. Respondent shall cause to be delivered to the Board his pocket license and, if one was
24 issued, his wall certificate on or before the effective date of the Decision and Order.

25 4. If Respondent ever files an application for licensure or a petition for reinstatement in
26 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must
27 comply with all the laws, regulations and procedures for reinstatement of a revoked license in
28 effect at the time the petition is filed, and all of the charges and allegations contained in Petition

1 Revoke Probation No. 800-2016-023937 shall be deemed to be true, correct and admitted by
2 Respondent when the Board determines whether to grant or deny the petition.

3 5. If Respondent should ever apply or reapply for a new license or certification, or
4 petition for reinstatement of a license, by any other health care licensing agency in the State of
5 California, all of the charges and allegations contained in Petition to Revoke Probation, No. 800-
6 2016-023937 shall be deemed to be true, correct, and admitted by Respondent for the purpose of
7 any Statement of Issues or any other proceeding seeking to deny or restrict licensure.

8 **ACCEPTANCE**

9 I have carefully read the Stipulated Surrender of License and Order. I understand the
10 stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into
11 this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and
12 agree to be bound by the Decision and Order of the Medical Board of California.

13
14 DATED: May 1, 2017



15 S. N. SHUBHAKARA, M.D., a.k.a.,
16 SOMWARPET SHUBHAKAR, M.D.
Respondent


17 **ENDORSEMENT**

18 The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted
19 for consideration by the Medical Board of California of the Department of Consumer Affairs.

20 Dated: May 1, 2017

Respectfully submitted,

21 XAVIER BECERRA
22 Attorney General of California
23 JUDITH T. ALVARADO
Supervising Deputy Attorney General



24 RICHARD D. MARINO
25 Deputy Attorney General
26 Attorneys for Complainant

Exhibit A

Accusation and Petition to Revoke Probation No. 800-2016-023937

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 RICHARD D. MARINO
Deputy Attorney General
4 State Bar No. 90471
California Department of Justice
5 300 So. Spring Street, Suite 1702
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6 Telephone: (213) 897-8644
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7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO October 17 20 16
BY R. Firdaus ANALYST

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation and Petition to
12 Revoke Probation Against:

13 **S. N. Shubhakar, M.D., a.k.a. Somwarpet**
14 **Shubhakar, M.D.**
P.O. Box 53
Porterville, CA 93258

15 **Physician's and Surgeon's Certificate**
16 **No. A33936,**

17 Respondent.

Case No. 800-2016-023937

**ACCUSATION AND PETITION TO
REVOKE PROBATION**

18 Complainant alleges:

19 **PARTIES**

20 1. Kimberly Kirchmeyer (Complainant) brings this Accusation and Petition to Revoke
21 Probation solely in her official capacity as the Executive Director of the Medical Board of
22 California, Department of Consumer Affairs (Board).

23 2. On or about June 11, 1979, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A33936 to S.N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D.
25 (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times
26 relevant to the charges brought herein and will expire on October 31, 2016, unless renewed.
27
28 //

1 3. On June 22, 2016, a "Cease Practice Order" was issued against Respondent.

2 **JURISDICTION**

3 4. This Accusation and Petition to Revoke Probation is brought before the Board, under
4 the authority of the following laws. All section references are to the Business and Professions
5 Code unless otherwise indicated.

6 5. Section 2227 of the Code provides that a licensee who is found guilty under the
7 Medical Practice Act may have his or her license revoked, suspended for a period not to exceed
8 one year, placed on probation and required to pay the costs of probation monitoring, or such other
9 action taken in relation to discipline as the Board deems proper.

10 6. Section 2234 of the Code, in pertinent part, provides that "[t]he board shall take
11 action against any licensee who is charged with unprofessional conduct.

12 **CAUSE FOR DISCIPLINE**

13 **(Unprofessional Conduct)**

14 7. Respondent is subject to disciplinary action for unprofessional conduct, generally,
15 pursuant to Business and Professions Code section 2234 in that Respondent failed to enroll in
16 and complete an approved clinical training program, as follows:

17 A. In a prior disciplinary action entitled *In the Matter of the Accusation Against S.*
18 *N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D.*, before the Medical Board of
19 California, in Case Number 08-2011-220081, effective December 17, 2015, Respondent's
20 physician's and surgeon's certificate was revoked with revocation being stayed and
21 Respondent being placed on probation for three (3) years with certain terms and conditions.
22 A true and accurate copy of that decision is attached hereto as Exhibit 1.

23 B. Term and Condition No. 1 provided:

24 "CLINICAL TRAINING PROGRAM. Within 60 calendar days of the effective date
25 of this Decision, Respondent shall enroll in a clinical training or educational program
26 equivalent to the Physician Assessment and Clinical Education Program (PACE) offered at
27 the University of California - San Diego School of Medicine ("Program"). Respondent
28 shall successfully complete the Program not later than six (6) months after Respondent's

1 initial enrollment unless the Board or its designee agrees in writing to an extension of that
2 time.

3 “The Program shall consist of a Comprehensive Assessment program comprised of
4 a two-day assessment of Respondent’s physical and mental health; basic clinical and
5 communication skills common to all clinicians; and medical knowledge, skill and judgment
6 pertaining to Respondent’s area of practice in which Respondent was alleged to be
7 deficient, and at minimum, a 40 hour program of clinical education in the area of practice in
8 which Respondent was alleged to be deficient and which takes into account data obtained
9 from the assessment, Decision(s), Accusation(s), and any other information that the Board
10 or its designee deems relevant. Respondent shall pay all expenses associated with the
11 clinical training program.

12 “Based on Respondent’s performance and test results in the assessment and clinical
13 education, the Program will advise the Board or its designee of its recommendation(s) for
14 the scope and length of any additional educational or clinical training, treatment for any
15 medical condition, treatment for any psychological condition, or anything else affecting
16 Respondent’s practice of medicine. Respondent shall comply with Program
17 recommendations.

18 “At the completion of any additional educational or clinical training, Respondent
19 shall submit to and pass an examination. Determination as to whether Respondent
20 successfully completed the examination or successfully completed the program is solely
21 within the program’s jurisdiction.

22 “. . . .”

23 C. Respondent did not enroll in an approved clinical education program within 60
24 calendars of the effective date of the Board’s Decision and Order *In the Matter of the*
25 *Accusation Against S. N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D.*, Medical
26 Board of California, Case Number 08-2011-220081, or at any other time.
27
28

1 **CAUSE TO REVOKE PROBATION**

2 **(Failure to Complete Approved Clinical Training Program)**

3 8. Respondent's probation granted by the Board in its Decision and Order *In the Matter*
4 *of the Accusation Against S. N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D.*, Medical
5 Board of California in Case Number 08-2011-220081, effective December 17, 2015, is subject to
6 revocation, as follows:

7 A. Complainant refers to and, by this reference, incorporates herein Paragraph 7,
8 subparagraphs A, B and C, above, as though fully set forth.

9 **DISCIPLINARY CONSIDERATIONS**

10 9. To determine the degree of discipline, if any, to be imposed on Respondent,
11 Complainant alleges that on or about December 17, 2015, in a prior disciplinary action entitled *In*
12 *the Matter of the Accusation Against S. N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D.*,
13 before the Medical Board of California, in Case Number 08-2011-220081, Respondent's
14 physician's and surgeon's certificate was revoked with revocation being stayed and Respondent
15 being placed on probation for three (3) years with certain terms and conditions.

16 10. To determine the degree of discipline, if any, to be imposed on Respondent,
17 Complainant alleges that on or about February 4, 1998, in a prior disciplinary action entitled *In*
18 *the Matter of the Accusation and Petition to Revoke Probation Against S. N. Shubhakar, M.D.*,
19 before the Medical Board of California, in Case Number D1-1990-2780, Respondent's
20 physician's and surgeon's certificate was revoked with revocation being stayed and
21 Respondent's seven year probation being extended an additional two years.

22 11. To determine the degree of discipline, if any, to be imposed on Respondent
23 Somwarpet Shubhakar, M.D., Complainant alleges that on or about August 12, 1992, in a prior
24 disciplinary action entitled *In the Matter of the Accusation Against Somwarpet Shubhakar, M.D.*,
25 before the Medical Board of California, in Case Number 08-1990-2780, Respondent's physician's
26 and surgeon's certificate was revoked with revocation being stayed and Respondent being placed
27 on probation for seven (7) years with certain terms and conditions, including a 60 day suspension.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking the probation that was granted by the Medical Board of California, in Case No. 08-2011-220081, and imposing the disciplinary order that was stayed, thereby revoking Physician's and Surgeon's Certificate No. A33936, issued to S.N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D.


2. Revoking or suspending Physician's and Surgeon's Certificate Number A33936, issued to S.N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D.

3. Revoking, suspending or denying approval of S.N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D. 's authority to supervise physician assistants, pursuant to section 3527 of the Code;

4. Ordering S.N. Shubhakar, M.D., a.k.a. Somwarpet Shubhakar, M.D., if placed on probation, to pay the Board the costs of probation monitoring; and

5. Taking such other and further action as deemed necessary and proper.

DATED: October 17, 2016


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT 1

Decision and Order, MBC Case No. 08-2011-220081

BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:)
S. N. SHUBHAKAR, M.D. a.k.a.) Case No. 08-2011-220081
SOMWARPET SHUBHAKAR, M.D.)
Physician's and Surgeon's)
Certificate No. A 33936)
Respondent)
_____)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on November 17, 2015.

IT IS SO ORDERED: November 17, 2015.

MEDICAL BOARD OF CALIFORNIA

By: Howard Krauss, M.D.
Howard Krauss, M.D., Chair
Panel B

MEDICAL BOARD OF CALIFORNIA
I do hereby certify that this document is a true
and correct copy of the original on file in this
office.
Capitla Krauss
Signature
Title
Date 11/27/15

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 RICHARD D. MARINO
Deputy Attorney General
4 State Bar No. 90471
300 So. Spring Street, Suite 1702
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Telephone: (213) 897-8644
6 Facsimile: (213) 897-9395
Attorneys for Complainant

7
8 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
9 **STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 08-2011-220081

11 **SOMWARPET SHUBHAKAR, M.D.**

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

12 **P.O. Box 53**
13 **Porterville, CA 93258**

14 **Physician's and Surgeon's Certificate No. A**
33936

15 Respondent.

16
17 In the interest of a prompt and speedy settlement of this matter, consistent with the public
18 interest and the responsibility of the Medical Board of California of the Department of Consumer
19 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order
20 which will be submitted to the Board for approval and adoption as the final disposition of the
21 Accusation.

22 **PARTIES**

23 1. Kimberly Kirchmeyer ("Complainant") is the Executive Director of the Medical
24 Board of California. She brought this action solely in her official capacity and is represented in
25 this matter by Kamala D. Harris, Attorney General of the State of California, by Richard D.
26 Marino, Deputy Attorney General.

2. Respondent Somwarpet Shubhakar, M.D. ("Respondent") is represented in this proceeding by attorney George L. Strasser, Esq., whose address is: Fig Garden Financial Center 5260 North Palm, Suite 421, Fresno, CA 93704-2209

3. On or about June 11, 1979, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 33936 to Somwarpet Shubhakar, M.D. (Respondent). The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 08-2011-220081 and will expire on October 31, 2014, unless renewed.

JURISDICTION

4. Accusation No. 08-2011-220081 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 12, 2013. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 08-2011-220081 is attached as exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 08-2011-220081. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

1 8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
2 every right set forth above.

3 **CULPABILITY**

4 9. Respondent understands and agrees that the charges and allegations in Accusation
5 No. 08-2011-220081, if proven at a hearing, constitute cause for imposing discipline upon his
6 Physician's and Surgeon's Certificate.

7 10. For the purpose of resolving the Accusation without the expense and uncertainty of
8 further proceedings, Respondent agrees that, at a hearing, Complainant could establish a factual
9 basis for the charges in the Accusation, and that Respondent hereby gives up his right to contest
10 those charges.

11 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
12 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
13 Disciplinary Order below.

14 **RESERVATION**

15 12. The admissions made by Respondent herein are only for the purposes of this
16 proceeding, or any other proceedings in which the Medical Board of California or other
17 professional licensing agency is involved, and shall not be admissible in any other criminal or
18 civil proceeding.

19 **CONTINGENCY**

20 13. This stipulation shall be subject to approval by the Medical Board of California.
21 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
22 Board of California may communicate directly with the Board regarding this stipulation and
23 settlement, without notice to or participation by Respondent or his counsel. By signing the
24 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
25 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
26 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
27 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
28

1 action between the parties, and the Board shall not be disqualified from further action by having
2 considered this matter.

3 14. The parties understand and agree that Portable Document Format (PDF) and facsimile
4 copies of this Stipulated Settlement and Disciplinary Order, including Portable Document Format
5 (PDF) and facsimile signatures thereto, shall have the same force and effect as the originals.

6 15. In consideration of the foregoing admissions and stipulations, the parties agree that
7 the Board may, without further notice or formal proceeding, issue and enter the following
8 Disciplinary Order:

9 **DISCIPLINARY ORDER**

10 IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 33936 issued
11 to Respondent Somwarpet Shubhakar, M.D. (Respondent) is revoked. However, the revocation is
12 stayed and Respondent is placed on probation for three (3) years on the following terms and
13 conditions.

14 1. CLINICAL TRAINING PROGRAM. Within 60 calendar days of the effective date
15 of this Decision, Respondent shall enroll in a clinical training or educational program equivalent
16 to the Physician Assessment and Clinical Education Program (PACE) offered at the University of
17 California - San Diego School of Medicine ("Program"). Respondent shall successfully complete
18 the Program not later than six (6) months after Respondent's initial enrollment unless the Board
19 or its designee agrees in writing to an extension of that time.

20 The Program shall consist of a Comprehensive Assessment program comprised of a two-
21 day assessment of Respondent's physical and mental health; basic clinical and communication
22 skills common to all clinicians; and medical knowledge, skill and judgment pertaining to
23 Respondent's area of practice in which Respondent was alleged to be deficient, and at minimum,
24 a 40 hour program of clinical education in the area of practice in which Respondent was alleged
25 to be deficient and which takes into account data obtained from the assessment, Decision(s),
26 Accusation(s), and any other information that the Board or its designee deems relevant.
27 Respondent shall pay all expenses associated with the clinical training program.

28 Based on Respondent's performance and test results in the assessment and clinical

1 education, the Program will advise the Board or its designee of its recommendation(s) for the
2 scope and length of any additional educational or clinical training, treatment for any medical
3 condition, treatment for any psychological condition, or anything else affecting Respondent's
4 practice of medicine. Respondent shall comply with Program recommendations.

5 At the completion of any additional educational or clinical training, Respondent shall
6 submit to and pass an examination. Determination as to whether Respondent successfully
7 completed the examination or successfully completed the program is solely within the program's
8 jurisdiction.

9 The following language shall be included in this condition unless Option #1 is included: If
10 Respondent fails to enroll, participate in, or successfully complete the clinical training program
11 within the designated time period, Respondent shall receive a notification from the Board or its
12 designee to cease the practice of medicine within three (3) calendar days after being so notified.
13 The Respondent shall not resume the practice of medicine until enrollment or participation in the
14 outstanding portions of the clinical training program have been completed. If the Respondent did
15 not successfully complete the clinical training program, the Respondent shall not resume the
16 practice of medicine until a final decision has been rendered on the accusation and/or a petition to
17 revoke probation. The cessation of practice shall not apply to the reduction of the probationary
18 time period. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
19 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
20 Chief Executive Officer at every hospital where privileges or membership are extended to
21 Respondent, at any other facility where Respondent engages in the practice of medicine,
22 including all physician and locum tenens registries or other similar agencies, and to the Chief
23 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
24 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
25 calendar days.

26 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

27 2. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
28 prohibited from supervising physician assistants.

1 3. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
2 governing the practice of medicine in California and remain in full compliance with any court
3 ordered criminal probation, payments, and other orders.

4 4. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
5 under penalty of perjury on forms provided by the Board, stating whether there has been
6 compliance with all the conditions of probation.

7 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
8 of the preceding quarter.

9 5. GENERAL PROBATION REQUIREMENTS.

10 Compliance with Probation Unit

11 Respondent shall comply with the Board's probation unit and all terms and conditions of
12 this Decision.

13 Address Changes

14 Respondent shall, at all times, keep the Board informed of Respondent's business and
15 residence addresses, email address (if available), and telephone number. Changes of such
16 addresses shall be immediately communicated in writing to the Board or its designee. Under no
17 circumstances shall a post office box serve as an address of record, except as allowed by Business
18 and Professions Code section 2021(b).

19 Place of Practice

20 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
21 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
22 facility.

23 License Renewal

24 Respondent shall maintain a current and renewed California physician's and surgeon's
25 license.

26 Travel or Residence Outside California

27 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
28 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty

1 (30) calendar days.

2 In the event Respondent should leave the State of California to reside or to practice
3 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
4 departure and return.

5 6. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
6 available in person upon request for interviews either at Respondent's place of business or at the
7 probation unit office, with or without prior notice throughout the term of probation.

8 7. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
9 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
10 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
11 defined as any period of time Respondent is not practicing medicine in California as defined in
12 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month
13 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
14 time spent in an intensive training program which has been approved by the Board or its designee
15 shall not be considered non-practice. Practicing medicine in another state of the United States or
16 Federal jurisdiction while on probation with the medical licensing authority of that state or
17 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
18 not be considered as a period of non-practice.

19 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
20 months, Respondent shall successfully complete a clinical training program that meets the criteria
21 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
22 Disciplinary Guidelines" prior to resuming the practice of medicine.

23 Respondent's period of non-practice while on probation shall not exceed two (2) years.

24 Periods of non-practice will not apply to the reduction of the probationary term.

25 Periods of non-practice will relieve Respondent of the responsibility to comply with the
26 probationary terms and conditions with the exception of this condition and the following terms
27 and conditions of probation: Obey All Laws; and General Probation Requirements.

28 8. COMPLETION OF PROBATION. Respondent shall comply with all financial

1 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
2 completion of probation. Upon successful completion of probation, Respondent's certificate shall
3 be fully restored.

4 9. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
5 of probation is a violation of probation. If Respondent violates probation in any respect, the
6 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
7 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
8 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
9 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
10 the matter is final.

11 10. LICENSE SURRENDER. Following the effective date of this Decision, if
12 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy
13 the terms and conditions of probation. Respondent may request to surrender his or her license.
14 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
15 determining whether or not to grant the request, or to take any other action deemed appropriate
16 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
17 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
18 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
19 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
20 application shall be treated as a petition for reinstatement of a revoked certificate.

21 11. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
22 with probation monitoring each and every year of probation, as designated by the Board, which
23 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
24 California and delivered to the Board or its designee no later than January 31 of each calendar
25 year.

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Page 2

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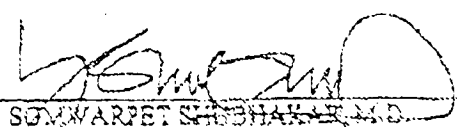
No 5119 P 10

Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy the terms and conditions of probation, Respondent may request to surrender his or her license. The Board reserves the right to evaluate Respondent's request and to exercise its discretion in determining whether or not to grant the request, or to take any other action deemed appropriate and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its designee and Respondent shall no longer practice medicine. Respondent will no longer be subject to the terms and conditions of probation. If Respondent re-applies for a medical license, the application shall be treated as a petition for reinstatement of a revoked certificate.

13 PROBATION MONITORING COSTS. Respondent shall pay the costs associated with probation monitoring each and every year of probation, as designated by the Board, which may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of California and delivered to the Board or its designee no later than January 31 of each calendar year.

ACCEPTANCE

I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully discussed it with my attorney, George L. Strasser, Esq. I understand the stipulation and the effect it will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Medical Board of California.

DATED: October 9, 2014
SONWARPET SHESHAK-RAO
Respondent

1 I have read and fully discussed with Respondent Somwarpet Shubhakar, M.D. the terms
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4 DATED: 10/9/2014

George L. Strasser
George L. Strasser, Esq.
Attorney for Respondent

8 ENDORSEMENT

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
10 submitted for consideration by the Medical Board of California.

11 Dated: 10/9/2014

Respectfully submitted,

KAMALA D. HARRIS
Attorney General of California
JUDITH T. ALVARADO
Supervising Deputy Attorney General

Richard D. Marino
RICHARD D. MARINO
Deputy Attorney General

Attorneys for Complainant

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FILED OAH

By: [Signature] Date: 10-10-14 9:53

Exhibit A

Accusation No. 08-2011-220081

1 KAMALA D. HARRIS
Attorney General of California
2 JUDITH T. ALVARADO
Supervising Deputy Attorney General
3 STEVE DIEHL
Deputy Attorney General
4 State Bar No. 235250
California Department of Justice
5 2550 Mariposa Mall, Room 5090
Fresno, California 93721
6 Telephone: (559) 477-1626
Facsimile: (559) 445-5106
7 *Attorneys for Complainant*

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO December 12, 2013
BY: *[Signature]* ANALYST

8 BEFORE THE
9 MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation Against:

Case No. 08-2011-220081

12 SOMWARPET SHUBHAKAR, M.D.

13 Post Office Box 53
14 Porterville, California 93258

15 Physician's and Surgeon's Certificate No. A
33936,

ACCUSATION

16 Respondent.

17
18
19 Complainant alleges:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Interim Executive Director of the Medical Board of California, Department of
23 Consumer Affairs.

24 2. On or about June 11, 1979, the Medical Board of California issued Physician's and
25 Surgeon's Certificate number A 33936 to Somwarpet Shubhakar, M.D. (Respondent). That
26 license was in full force and effect at all times relevant to the charges brought herein and will
27 expire on October 31, 2014, unless renewed.

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1 "(3) Be placed on probation and be required to pay the costs of probation monitoring upon
2 order of the board.

3 "(4) Be publicly reprimanded by the board. The public reprimand may include a
4 requirement that the licensee complete relevant educational courses approved by the board.

5 "(5) Have any other action taken in relation to discipline as part of an order of probation, as
6 the board or an administrative law judge may deem proper.

7 "(b) Any matter heard pursuant to subdivision (a), except for warning letters, medical
8 review or advisory conferences, professional competency examinations, continuing education
9 activities, and cost reimbursement associated therewith that are agreed to with the board and
10 successfully completed by the licensee, or other matters made confidential or privileged by
11 existing law, is deemed public, and shall be made available to the public by the board pursuant to
12 Section 803.1."

13 6. Section 2234 of the Code, states, in pertinent part:

14 "The board shall take action against any licensee who is charged with unprofessional
15 conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not
16 limited to, the following:

17 "...

18 "(b) Gross negligence.

19 "(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or
20 omissions. An initial negligent act or omission followed by a separate and distinct departure from
21 the applicable standard of care shall constitute repeated negligent acts.

22 "(1) An initial negligent diagnosis followed by an act or omission medically appropriate
23 for that negligent diagnosis of the patient shall constitute a single negligent act.

24 "(2) When the standard of care requires a change in the diagnosis, act, or omission that
25 constitutes the negligent act described in paragraph (1), including, but not limited to, a
26 reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the
27 applicable standard of care, each departure constitutes a separate and distinct breach of the
28 standard of care.

1 13. The patient was not seen again by Respondent, and next presented to a physician
2 assistant at Sequoia Family Medical Center on or about November 16, 2009. A plain X-ray on
3 this date showed slipped capital femoral epiphysis (SCFE)¹ in the left hip. The physician assistant
4 immediately referred the patient to Valley Children's Hospital in Madera, California, for urgent
5 orthopedic surgical consultation.

6 14. The standard of care is to obtain a complete history of the presenting complaint,
7 perform a relevant physical examination and then utilize this information to formulate a
8 differential diagnosis of possible etiologies to best explain the clinical picture. Chronic hip pain
9 in an overweight teenage patient with positive findings on physical examination should cause
10 suspicion of SCFE or hip fracture, both of which require emergent evaluation and close follow-up
11 examination.

12 15. When the patient presented on or about June 24, 2009, his hip pain was significantly
13 worse and he presented with an abnormal examination in that his left leg was shorter than the
14 right. Respondent failed to recognize these signs and symptoms of possible SCFE or hip fracture.
15 As a result, Respondent departed from the standard of care.

16 16. The standard of care is to identify and order the most appropriate test(s) likely to
17 confirm the diagnosis when the history and physical exam do not conclusively do so on their own
18 merits. The diagnostic evaluation should be timely and lead to a specific therapy when indicated.

19 17. When the patient presented on or about June 24, 2009, the most appropriate test to
20 confirm a possible diagnosis of SCFE or hip fracture would have been a repeat plain X-ray of the
21 hip. Instead, Respondent ordered an MRI, which he knew would take an inordinate amount of
22 time to complete in light of the Medi-Cal approval process. As a result, the patient's care was
23 detrimentally delayed, and Respondent departed from the standard of care.

24 18. The standard of care is to follow up on significantly abnormal laboratory or
25 radiographic diagnostic studies to insure that the patient receives appropriate treatment. "Hip

26 ¹ SCFE is a common hip disorder in obese adolescent males, in which the head (or capital)
27 of the femur fractures and slips out of position with respect to the femoral neck.
28

1 fracture" is a diagnosis which requires an urgent referral to an orthopedic surgeon for further
2 evaluation. Interval care in the form of crutches or a wheel chair, with restriction of physical
3 activity, is also required.

4 19. When Respondent diagnosed the patient with "hip fracture" on or about August 4,
5 2009, he should have made an urgent referral to an orthopedic surgeon. Instead, he further
6 delayed treatment of the patient by ordering a CT scan and instructing the patient to return in two
7 weeks. Furthermore, Respondent failed to contact the patient when the CT scan was not
8 performed, either to reschedule the CT, to have the patient return for a follow-up visit, or to make
9 a referral to an orthopedic surgeon. As a result, the patient's care was detrimentally delayed.
10 Additionally, in the interim, Respondent failed to restrict the patient's activity, or to provide
11 crutches or a wheel chair. Thus, Respondent departed from the standard of care.

12 SECOND CAUSE FOR DISCIPLINE

13 (Incompetence – Patient C.M.)

14 20. By reason of the facts set forth above in paragraphs 9 through 19, Respondent is
15 subject to disciplinary action under section 2234, subdivision (d) for incompetence.

16 THIRD CAUSE FOR DISCIPLINE

17 (Repeated Negligent Acts – Patient C.M.)

18 21. By reasons of the facts set forth above in paragraphs 9 through 19, Respondent is
19 subject to disciplinary action under section 2234, subdivision (c) for repeated negligent acts.

20 FOURTH CAUSE FOR DISCIPLINE

21 (Record-Keeping – Patient C.M.)

22 22. Respondent is subject to disciplinary action under section 2266 in that he failed to
23 keep adequate and accurate records related to the provision of services for a patient. The
24 circumstances are set forth in paragraphs 9 through 13, which are incorporated by reference
25 herein.

26 23. The standard of care is to keep timely, legible, accurate, and complete medical
27 records.

24. Respondent stated in an interview with a Board investigator that he performed a limited examination of the patient during the visit on or about August 4, 2009. There is no documentation of anything other than vital signs to indicate that an exam was performed on that day. As a result, Respondent departed from the standard of care.

DISCIPLINE CONSIDERATIONS

25. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about February 4, 1998, in a prior disciplinary action entitled *In the Matter of the Accusation and Petition to Revoke Probation Against Somwarpet Shubhakar, M.D.* before the Medical Board of California, in Case Number D1-1990-2780, Respondent's license was revoked. However, the revocation was stayed and Respondent's license was placed on probation for a period of two years in addition to Respondent's previous grant of probation, with numerous terms and conditions. That decision is now final and is incorporated by reference as if fully set forth.

26. To determine the degree of discipline, if any, to be imposed on Respondent, Complainant alleges that on or about August 12, 1992, in a prior disciplinary action entitled *In the Matter of the Accusation Against Somwarpet Shubhakar, M.D.* before the Medical Board of California, in Case Number 08-1990-2780, Respondent's license was placed on seven years probation with terms and conditions including 60 days suspension. That decision is now final and is incorporated by reference as if fully set forth.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 33936, issued to Somwarpet Shubhakar, M.D.
2. Revoking, suspending or denying approval of Somwarpet Shubhakar's authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3. If placed on probation, ordering Somwarpet Shubhakar to pay the Board the costs of probation monitoring;

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4. Taking such other and further action as deemed necessary and proper.

December 12, 2013

DATED: _____



KIMBERLY KIRCHMEYER
Interim Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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